
**Children & Family Services
Committee**

HB 2988

Brief Description: Protecting the rights of foster parents.

Sponsors: Representatives Boldt, Clements, Pearson, Bailey and McMahan.

Brief Summary of Bill

- Prohibits any Department of Social and Health Services employee from retaliating or discriminating against a foster parent for specified actions.
- Establishes enforcement procedures for violations of conflict of interest provisions relating to out-of-home placement.

Hearing Date: 2/5/04

Staff: Cynthia Forland (786-7152).

Background:

HB 1102 of 2001, relating to foster parents rights, was enacted in 2001 with a partial veto by the Governor. HB 1102 provided that foster parents have the right to be free of coercion, discrimination, and reprisal in serving foster children, including the right to voice grievances about treatment furnished or not furnished to the foster child.

HB 1102 also provided that no child may be placed or remain in a specific out-of-home placement when there is a conflict of interest on the part of any adult residing in the home in which the child is to be or has been placed. A conflict of interest exists when:

- there is an adult in the home who, as a result of his or her employment and an allegation of abuse or neglect of the child, conducts or has conducted an investigation of the allegation; or
- the child has been, is, or is likely to be a witness in any pending cause of action against any adult in the home when the cause includes: an allegation of abuse or neglect against the child or any sibling of the child; or a claim of damages resulting from wrongful interference with the parent-child relationship of the child and his or her biological or adoptive parent.

This prohibition concerning out-of-home placements may not be waived or deferred by the Department of Social and Health Services (DSHS) under any circumstance or at the request of any person, regardless of who has made the request or the length of time of the requested placement.

Two sections of the bill were vetoed by the Governor. Of those two vetoed sections, the first section provided that no DSHS employee may retaliate against a foster parent or in any other manner discriminate against any foster parent because:

- The foster parent made a complaint with the Office of Family and Children's Ombudsman, the Attorney General, law enforcement agencies, or the DSHS, provided information, or otherwise cooperated with the investigation of such a complaint;
- The foster parent has caused to be instituted any proceedings under or related to Title 13 RCW, relating to juvenile courts and juvenile offenders;
- The foster parent has testified or is about to testify in any proceedings under or related to Title 13 RCW, relating to juvenile courts and juvenile offenders;
- The foster parent has advocated for services on behalf of the foster child;
- The foster parent has sought to adopt a foster child in the foster parent's care; or
- The foster parent has discussed or consulted with anyone concerning the foster parent's rights under chapter 74.13 RCW, relating to child welfare services, chapter 74.15 RCW, relating to the care of children, expectant mothers, and developmentally disabled, or chapter 13.34 RCW, relating to dependencies.

The second vetoed section concerned enforcement of the provisions relating to conflicts of interest relating to out-of-home placement. That section provided the following:

- When the Secretary of the DSHS (Secretary) has reasonable cause to believe that an employee has knowingly violated the conflict of interest provisions relating to out-of-home placement, notwithstanding any rule adopted under state civil service law, the Secretary is required to immediately suspend the employee.
- The Secretary is required to immediately institute proceedings to terminate the employment of any person who is found by the DSHS, based upon a preponderance of the evidence, to have knowingly violated the conflict of interest relating to out-of-home placement.
- When the Secretary has reasonable cause to believe that the employee of a contractor has knowingly violated the conflict of interest provisions relating to out-of-home placement, the Secretary must require the employee of a contractor to be immediately removed from any employment position that would permit the employee to make or influence placement decisions.
- The Secretary is required to disqualify for employment with a contractor in any position that would permit the employee to make or influence placement decisions, any person who is found by the DSHS, based upon a preponderance of evidence, to have knowingly violated the conflict of interest relating to out-of-home placement.
- The Secretary, when considering the renewal of a contract with a contractor who has taken action with respect to an employee in relation to a violation of the conflict of interest provisions relating to out-of-home placement, must require the contractor to demonstrate that there has been significant progress made in reducing the likelihood that the contractor's employees would knowingly violate the conflict of interest provisions relating to out-of-home placement. The Secretary may not renew a contract unless he or she determines that significant progress has been made.
- For purposes of disqualification for benefits under state law, a person terminated as a result of a violation of the conflict of interest provisions relating to out-of-home placement must be considered discharged for misconduct.

Summary of Bill:

No DSHS employee may retaliate against a foster parent or in any other manner discriminate against any foster parent because:

- The foster parent made a complaint with the Office of Family and Children's Ombudsman, the Attorney General, law enforcement agencies, or the DSHS, provided information, or otherwise cooperated with the investigation of such a complaint;
- The foster parent has caused to be instituted any proceedings under or related to Title 13 RCW, relating to juvenile courts and juvenile offenders;
- The foster parent has testified or is about to testify in any proceedings under or related to Title 13 RCW, relating to juvenile courts and juvenile offenders;
- The foster parent has advocated for services on behalf of the foster child;
- The foster parent has sought to adopt a foster child in the foster parent's care; or
- The foster parent has discussed or consulted with anyone concerning the foster parent's rights under chapter 74.13 RCW, relating to child welfare services, chapter 74.15 RCW, relating to the care of children, expectant mothers, and developmentally disabled, or chapter 13.34 RCW, relating to dependencies.

When the Secretary of the DSHS (Secretary) has reasonable cause to believe that an employee has knowingly violated the conflict of interest provisions relating to out-of-home placement, notwithstanding any rule adopted under state civil service law, the Secretary is required to immediately suspend the employee.

The Secretary is required to immediately institute proceedings to terminate the employment of any person who is found by the DSHS, based upon a preponderance of the evidence, to have knowingly violated the conflict of interest relating to out-of-home placement.

When the Secretary has reasonable cause to believe that the employee of a contractor has knowingly violated the conflict of interest provisions relating to out-of-home placement, the Secretary must require the employee of a contractor to be immediately removed from any employment position that would permit the employee to make or influence placement decisions.

The Secretary is required to disqualify for employment with a contractor in any position that would permit the employee to make or influence placement decisions, any person who is found by the DSHS, based upon a preponderance of evidence, to have knowingly violated the conflict of interest relating to out-of-home placement.

The Secretary, when considering the renewal of a contract with a contractor who has taken action with respect to an employee in relation to a violation of the conflict of interest provisions relating to out-of-home placement, must require the contractor to demonstrate that there has been significant progress made in reducing the likelihood that the contractor's employees would knowingly violate the conflict of interest provisions relating to out-of-home placement. The Secretary may not renew a contract unless he or she determines that significant progress has been made.

For purposes of disqualification for benefits under state law, a person terminated as a result of a violation of the conflict of interest provisions relating to out-of-home placement must be considered discharged for misconduct.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.